



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 016778/0432

#7  
0604-03  
SI

Applicant: Gen MOTOYOSHI  
Title: CDMA COMMUNICATION SYSTEM CAPABLE OF FLEXIBLY  
ASSIGNING SPREADING CODES TO A CHANNEL IN  
ACCORDANCE WITH TRAFFIC  
Serial No.: 09/888,393  
Filed: June 26, 2003  
Examiner: Unknown  
Art Unit: 2661

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**INFORMATION DISCLOSURE STATEMENT  
UNDER 37 CFR §1.56 and 37 CFR §1.97**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Submitted herewith on Form PTO SB/08 is a listing of documents known to Applicant in order to comply with Applicant's duty of disclosure pursuant to 37 CFR 1.56. A copy of each listed document is being submitted to comply with the provisions of 37 CFR 1.97 and 1.98.

The submission of any documents herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a prima facie prior art reference against the claims of the present application.

**TIMING OF THE DISCLOSURE**

The instant Information Disclosure Statement is believed to be filed in accordance with 37 C.F.R. 1.97(b), prior to the mailing date of a first Office Action on the merits (first scenario). If that is not the case, such as in a second scenario in which a first Office Action on the merits has been mailed before the filing of the instant Information Disclosure Statement, then either a certification or fee is required, and a certification is provided below. If neither of the first or second scenarios is the case, such as if a final Office Action or a notice of allowance has been mailed by the PTO (third scenario), then both a certification and fee are required, and in that case a certification is provided below and also the PTO is authorized to obtain the necessary fee to have the instant IDS considered, from Foley & Lardner Deposit Account #19-0741.

**CERTIFICATION**

The undersigned hereby certifies in accordance with 37 C.F.R. §1.97(e)(1) that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three (3) months prior to the filing of this Statement.

**RELEVANCE OF EACH DOCUMENT**

A translation of a portion of a Japanese Office Action that issued February 12, 2003 with respect to a counterpart Japanese patent application is provided below.

"The invention related to the following claims of this application is based on inventions cited in the following publications that had been circulated prior to this application in Japan or a foreign country. Because a person having ordinary knowledge in the technical field to which that invention belongs could have easily made the invention prior to this application, a patent cannot be granted pursuant to the stipulations of Article 29, Section 2 of the Japan Patent Law.

**Note**

(For a list of the cited literature, see the List of Cited Literature.)

Claims: 1 through 10

Cited Literature: 1 through 5

**Remarks**

Described in Cited Literature 1 (Scope of Patent Claims), is a frequency spectrum diffusion communication system based on frequency hopping modulation using the same frequency band in the ascending circuit and descending circuit, wherein the number of hopping frequencies allocated corresponding to circuit quality, and the number of hops per data symbol are modulated.

When comparing the invention related to Claims 1 through 10 of the present application with the invention described in Cited Literature 1, the number of diffusion codes allocated corresponding to the traffic of the ascending circuit (and/or descending circuit) is modulated in the invention related to Claims 1 through 10 of the present application, and in contrast there is the difference that the number of diffusion codes allocated corresponding to the traffic of the ascending circuit (and/or descending circuit) is not modulated in the invention related to Cited Literature 1. However, the fact that the number of diffusion codes allocated corresponding to the traffic of the ascending circuit (and/or descending circuit) is suitably set, is nothing more than a well-known technology (for example, Claim 1, paragraph number (0060), and Figure 5 of Cited Literature 2; Claim 1 of Cited Literature 3; Claim 3 and Claim 4 of Cited Literature 4; and Claims 1 through 5 of Cited Literature 5).

Consequently, any person skilled in the art could easily obtain the configuration of the invention related to Claims 1 through 10 of the present application based on the invention described in Cited Literature 1 and the aforementioned well-known technology.

If new reasons for rejection are discovered, notification will be given of the reasons for rejection.

List of Cited Literature

1. Japanese Unexamined Patent Application Publication H9-214404 (Literature cited in the Specification of the present application)
2. Japanese Unexamined Patent Application Publication H8-274701
3. Japanese Unexamined Patent Application Publication H7-226978
4. Japanese Unexamined Patent Application Publication H11-331943
5. Japanese Unexamined Patent Application Publication H11-331123

Record of Prior Art Literature Search Results

Fields searched - IPC 7<sup>th</sup> Ed. - H04J 13/00-13/06  
H04B 1/69-1/713

Prior art literature

Japanese Unexamined Patent Application Publication H11-234242 (A communication system with asymmetric ascending and descending traffic wherein the diffusion percentage, number of multiplex codes, and use time slots are separately set corresponding to the traffic ascending and descending, CDMA/TDD)

This Record of Prior Art Literature Search Results does not constitute a reason for rejection, but regarding corrections, the fact that examples of well-known technology are cited cannot be avoided."

Applicant's statements regarding the Japanese Office Action are based on a partial translation that Applicant's representative obtained. These statements should in no way be considered as an agreement by Applicant with, or an admission of, what is asserted in the Japanese Office Action.

Applicant respectfully requests that the listed documents be considered by the Examiner and formally be made of record in the present application and that an initialed copy of Form PTO SB/08 be returned in accordance with MPEP §609.

Respectfully submitted,

1 May, 2003  
Date

Phillip J. Articola  
Phillip J. Articola  
Registration No. 38,819

FOLEY & LARDNER  
Washington Harbour  
3000 K Street, N.W., Suite 500  
Washington, D.C. 20007-5109  
Telephone: (202) 672-5300  
Facsimile: (202) 672-5399

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Substitute for form 1449B/PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

Date Submitted: May 1, 2003

(use as many sheets as necessary)

Sheet 1 of 1

**Complete if Known**

Application Number	09/888,393
Filing Date	06/26/2001
First Named Inventor	Gen MOTOYOSHI
Group Art Unit	2661
Examiner Name	Unknown
Attorney Docket Number	016778-0432

**U.S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number	Kind Code <sup>2</sup> (if known)			
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						MAY 02 2003

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**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document			Name of Patentee or Applicant of Cited Documents	Date of Publication of Cited Document MM-DD-YYYY	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Office <sup>3</sup>	Number <sup>4</sup>	Kind Code <sup>5</sup> (if known)				
	A1	JP	7-226978			08/22/1995		X
	A2	JP	8-274701			10/18/1996		X
	A3	JP	11-234242			08/27/1999		X
	A4	JP	11-331943			11/30/1999		X

**NON PATENT LITERATURE DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>6</sup>

Examiner  
SignatureDate  
Considered

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Unique citation designation number. <sup>2</sup> See attached Kinds of U.S. Patent Documents. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document.

<sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

Burden Hour Statement: This form is estimated to take 2.0 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, D.C. 20231.